

§ 122C-263.1. (Effective until October 1, 2019) Secretary's authority to waive requirement of first examination by physician or eligible psychologist; training of certified providers performing first examinations.

(a) The Secretary of Health and Human Services may, upon request of an LME, waive the requirements of G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283 pertaining to initial (first-level) examinations by a physician or eligible psychologist of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a), as applicable, as follows:

- (1) The Secretary has received a request from an LME to substitute for a physician or eligible psychologist, a licensed clinical social worker, a master's level psychiatric nurse, or a master's level certified clinical addictions specialist in accordance with subdivision (8) of this subsection to conduct the initial (first-level) examinations of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a). In making this type of request, the LME shall specifically describe all of the following:
 - a. How the purpose of the statutory requirement would be better served by waiving the requirement and substituting the proposed change under the waiver.
 - b. How the waiver will enable the LME to improve the delivery or management of mental health, developmental disabilities, and substance abuse services.
 - c. How the health, safety, and welfare of individuals will continue to be at least as well protected under the waiver as under the statutory requirement.
- (2) The Secretary shall review the request and may approve it upon finding all of the following:
 - a. The request meets the requirements of this section.
 - b. The request furthers the purposes of State policy under G.S. 122C-2 and mental health, developmental disabilities, and substance abuse services reform.
 - c. The request improves the delivery of mental health, developmental disabilities, and substance abuse services in the counties affected by the waiver and also protects the health, safety, and welfare of individuals receiving these services.
- (3) The Secretary shall evaluate the effectiveness, quality, and efficiency of mental health, developmental disabilities, and substance abuse services and protection of health, safety, and welfare under the waiver.
- (4) A waiver granted by the Secretary under this section shall be in effect for a period of up to three years and may be rescinded at any time within this period if the Secretary finds the LME has failed to meet the requirements of this section.
- (5) In no event shall the substitution of a licensed clinical social worker, master's level psychiatric nurse, or master's level certified clinical addictions specialist under a waiver granted under this section be construed as authorization to expand the scope of practice of the licensed clinical social worker, the master's level psychiatric nurse, or the master's level certified clinical addictions specialist.
- (6) The Department shall require that individuals performing initial examinations under the waiver have successfully completed the Department's standardized

training program and examination. The Department shall maintain a list of these individuals on its Web site.

- (7) As part of its waiver request, the LME shall document the availability of a physician to provide backup support.
- (8) A master's level certified clinical addiction specialist shall only be authorized to conduct the initial examination of individuals meeting the criteria of G.S. 122C-281(a).

(b) The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall expand its standardized certification training program to include refresher training for all certified providers performing initial examinations pursuant to subsection (a) of this section. (2011-346, s. 1.)

§ 122C-263.1. (Effective October 1, 2019) Secretary's authority to certify commitment examiners; training of certified commitment examiners performing first examinations; LME/MCO responsibilities.

(a) Physicians and eligible psychologists are qualified to perform the commitment examinations required under G.S. 122C-263(c) and G.S. 122C-283(c). The Secretary of Health and Human Services may individually certify to perform the first commitment examinations required by G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283 other health, mental health, and substance abuse professionals whose scope of practice includes diagnosing and documenting psychiatric or substance use disorders and conducting mental status examinations to determine capacity to give informed consent to treatment as follows:

- (1) The Secretary has received a request:
 - a. To certify a licensed clinical social worker, a master's or higher level degree nurse practitioner, a licensed professional counsellor, or a physician's assistant to conduct the first examinations described in G.S. 122C-263(c) and G.S. 122C-283(c).
 - b. To certify a master's level licensed clinical addictions specialist to conduct the first examination described in G.S. 122C-283(c).
- (2) The Secretary shall review the request and may approve it upon finding all of the following:
 - a. The request meets the requirements of this section.
 - b., c. Repealed by Session Laws 2018-33, s. 25, effective October 1, 2019.
 - d. The Department determines that the applicant possesses the professional licensure, registration, or certification to qualify the applicant as a professional whose scope of practice includes diagnosing and documenting psychiatric or substance use disorders and conducting mental status examinations to determine capacity to give informed consent to treatment.
 - e. The applicant for certification has successfully completed the Department's standardized training program for involuntary commitment and has successfully passed the examination for that program.
- (3) Repealed by Session Laws 2018-33, s. 25, effective October 1, 2019.
- (4) A certification granted by the Secretary under this section shall be in effect for a period of up to three years and may be rescinded at any time within this period if the Secretary finds the certified individual has failed to meet the requirements of this section. Certification may be renewed every three years upon completion of a refresher training program approved by the Department.

- (5) In no event shall the certification of a licensed clinical social worker, master's or higher level degree nurse practitioner, licensed professional counsellor, physician assistant, or master's level certified clinical addictions specialist under this section be construed as authorization to expand the scope of practice of the licensed clinical social worker, the master's level nurse practitioner, licensed professional counsellor, physician assistant, or the master's level certified clinical addictions specialist.
 - (6) The Department shall require that individuals certified to perform initial examinations under this section have successfully completed the Department's standardized involuntary commitment training program and examination. The Department shall maintain a list of these individuals on its Internet Web site.
 - (7) Repealed by Session Laws 2018-33, s. 25, effective October 1, 2019.
 - (7a) No less than annually, the Department shall submit a list of certified first commitment examiners to the Chief District Court Judge of each judicial district in North Carolina and maintain a current list of certified first commitment examiners on its Internet Web site.
 - (8) A master's level licensed clinical addiction specialist shall only be authorized to conduct the initial examination of individuals meeting the criteria of G.S. 122C-281(a).
- (b) The Department shall expand its standardized certification training program to include refresher training for all certified providers performing initial examinations pursuant to subsection (a) of this section. (2011-346, s. 1; 2018-33, s. 25.)